1908-033 Chancery Causes: Cdn. of Bradley Livingston &c by vs A. L. Loyd &c
Lee Co.

Parsons

CA- Estate Dispute
T- Property

To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County.

Your orator, Jeff M. Parsons, who was by an order of your honor's Court made on the _____, day of July, 1908, duly appointed as guardian for Bradley Livingston, Herbert Livingston, William Livingston, McKinley Livingston and Lenas Livingston, would respectfully represent unto your Honor that pursuant to said order he was duly appointed and has qualified as a guardian of said Livingstons, and by law is now their proper guardian; and all of his said wards are infants under the age of twenty-one years.

Your orator will further show unto your Honor that heretofore, to-wit, on the _____, day of _____, 1906, Cora Livingston, the mother of said infants, was appointed and qualified as their guardian, and that H. Z. Parsons and A. L. Loyd became her surety on her official bond as a guardian; a certified copy of which bond is herewith filed as a part of this bill marked exhibit "A".

Your orator will further show unto your Honor that after the said Cora Livingston was duly appointed and qualified as guardian for said infants as her said children, there came into here hands on the 22d day of May, 1906, the sum of ($456.80) four hundred and fifty-six dollars and eighty cents; or at least this sum should have gone into her hands as guardian for her said children. Your orator is advised, however, that instead of her taking said sum of ($456.80) four hundred and fifty-six dollars and eighty cents, and properly using the same as guardian, she simply turned the same over to her father, the said A. L. Loyd to use and manage without taking from him any note or security for said sum of money; that this fact bacame known to the said H. Z. Parsons, the co-security of A. L. Loyd on her official bond, and thereupon the said H. Z. Parsons at the September term 1907, of your Honors Court had a rule made against the said Cora Livingston as guardian

for her said children to appear before your honor and show cause why she should not give a new bond as a guardian for her said children, which rule was properly served upon her; and upon said rule at the December term 1907, of your Honor's Court, said rule was heard, and an order entered by your honor in the Circuit Court for Lee County requiring the said Cora Livingston within a reasonable time next thereafter to appear before the Clerk of your honor's Court and give a new bond with good and sufficient security as guardian for her said children. But the said Cora Livingston failed and refused to appear before the said Clerk, or before your Honor and give such bond. So thereupon your honor on the _____, day of July, 1908, removed said Cora Livingston as such guardian, and appointed your orator as aforesaid guardian for said infants.

Your orator alleges and avers that as guardian for said children he is entitled to have, of and from the said Cora Livingston, A. L. Loyd and H. Z. Parsons a judgment for said sum of money or such part thereof as has not heretofore been legitimately expended in the support and maintainance of his said wards. Your orator is advised that the said A. L. Loyd admits having gotten the ($456.80) four hundred and fifty-six dollars and eighty cents, but claims to have expended in the support and maintainance of said children, or some of them at least a considerable portion of said money. Your orator does not know whether this be the truth or not, and whether the expenditures which he claims to have made were for the actual neccessities of life for the support and maintenance of said children.

Your orator is advised that if of said A. L. Loyd has made expenditures in the support and maintenance of said wards, or any or either of them, he should not have credit for such expenditures, unless he is able to show and does show what such expenditures were, and they were for the actual neccessities of life in the support and maintainance of said children. Three or four of said infants may be of such tender years that they are un-

able to support themselves, but your orator is advised that the said Bradley Livingston and Herbert Livingston are each old enough and strong enough to support themselves, and have been ever since May 22-1906.

Your orator is further advised and informed that the said A. L. Loyd is probably insolvent, and whatever sum of money he is entitled to as such guardian will have to be paid to him by the said H. Z. Parsons, and if such is the case, your orator is advised that the said H. Z. Parsons should have a judgment over against the said A. L. Loyd for whatever amount he should have to pay as surety on the official bond of the said Cora Livingston, because, as aforesaid the said A. L. Loyd took into his hands and used and disposed of the whole of said ($456.80) four hundred and fifty-six dollars and eighty cents;

The premises considered, your orator is advised that he is remediless save in a Court of equity on account of the ~~said~~ claim of A. L. Loyd having expended a portion of said sum of money in the support and maintainance of his said wards while the said Cora Livingston was their guardian and the amount and nature of such expenditures being unknown and not ascertained. His prayer therefore is, that your Honor take cognizance of this, his cause of complaint; that the said Cora Livingston, H. Z. Parsons, A. L. Loyd, Bradley Livingston, Herbert Livingston, William Livingston, McKinley Livingston and Lenas Livingston be made parties defendants to this suit; that since all of said Livingstons, except the said Cora Livingston, are infants under the age of twenty-one years old, a guardian ad li-tem be appointed to defend them in this cause; that your honor appoint a Commissioner to take, state and settle the guardianship account of the said Cora Livingston; that the Commissioner be required especially to assertain what sum or sums of money the said A. L. Loyd has heretofore paid out for the support amd maintainance of the said children, or either of them, and whether such payments were a neccessity

for them; that all of said adults defendants be required to answer this bill, but they need not do so on oath as that is especially waived.

That especially the said A. L. Loyd answer whether he did take into his hands the said sum of money, to-wit, ($456.80) four hundred and fifty-six dollars and eighty cents and whether he has expended any part thereof in the support and maintainance of said children, or either of them, and the amount and purpose expended upon each severally; and that your orator on the final hearing of this cause be rendered a judgment against the said Cora Livingston, A. L. Loyd and H. Z. Parsons for whatever sum may be found owing to his said wards. And that he have other and general relief be granted him He will ever pray, etc.

Pennington Bros. P.Q.

Jeff K. Parsons, Guard'n

vs } Bill

Cora Livingston et al

1908, 2nd Aug. Rules.
Bill filed, Spa, executed as to Def.'s.
Parsons, Cora Livingston & A. L. Loyd, Ans. G.A.L. filed &
D.N.
" 1st Sept. Rules
D.N. compl'd & Cause
set for hearing.

Pennington Bros.
ATTORNEYS AT LAW.
JONESVILLE AND PENNINGTON GAP, VA.

To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County.

The separate answer of H. Z. Parsons to a bill of complaint filed in your Honor's Court by Jeff K. Parsons guardian, etc. against him and others, and for answer thereto, or to so much thereof as he is advised that it is material for him to answer, answering says:

That your respondent supposes that it is true that heretofore Cora M. Livingston was duly appointed as guardian for her children named in said complainant's bill; that it is further true that your respondent signed her Official bond as such guardian as surety; and that it is true that the said complainant, for the reason stated in his bill has been duly appointed, and is now guardian of said children;

Your respondent says that he has had read to him the separate answers of both A. L. Loyd and Cora M. Livingston filed in this case; that he supposes that it is true, in fact he knows it to be the case that the said Cora M. Livingston has from the time she was appointed guardian for said infant children up to the present supported, clothed and maintained each of them at her own expense; that in his opinion it is amply worth ($50.00) fifty dollars per annum to support each of said children, and that being the case, he is advised that the said Cora M. Livingston should have a credit for the sum of ($250.00) two hundred and fifty dollars for support and maintainance of said children as of the 22d day of May, 1907, and ($250.00) two hundred anf fifty dollars as of the 22d day of May, 1908.

Your respondent says that he has often heard the said A. L. Loyd say that he took into his possession the said ($456.80) four hundred and fifty-six dollars and eighty cents; and that he admits owing the whole thereof except the sum of

($142.24) one hundred and forty-two dollars and twenty-four cents which he claimes to have furnished to the said Cora M. Livingston for the purpose of supporting and maintaining her said children.

Your respondent is advised that the said support and maintenance of said children should be charged to them and that the sum mentioned by the said Cora M. Livingston in her answer for the support of each of said children is reasonable and fair.

Since the said Cora M. Livingston as guardian for said infants has supported and maintained them, your respondent denies that there is now any liability upon him as surety on her Official bond because when said support and maintenances of said children is deducted from said sum of money there will be nothing owing to them.

But should your respondent be misadvised about this matter and he as surety on the Official Bond of said Cora M. Livingston have to pay any sum of money, and since said sum of money went into the hands of said A. L. Loyd, he prays that he have a judgment over against the said A. L. Loyd for whatever sum of money that may be decreed against your respondent herein in favor of said complainant; and he prays that this, his answer, be treated as a cross bill against the said A. L. Loyd for the purpose of obtaining a judgment against him for such sum of money as may be decreed against him in favor of said complainant. And that all further, other and general relief be awarded him as the nature of his case may require, and he will ever pray, etc.

H Z parsons.

Jeff K. Parsons

vs } Answer of H. Z. Parsons

A. L. Loyd et al

Filed Sept. 7, 1908, in open court & by leave thereof.

H. C. P. Ewing,
Clerk

To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County.

The separate answer of A. L. Loyd to a certain bill of complaint filed in your Honors Court by Jeff K. Parsons, guardian, etc. against him and others, and for answer thereto, or so much thereof as he is advised that it is material for him to answer, answering says:

That your respondant supposes that it is true that the said Jeff K. Parsons was heretofore duly appointed guardian for Bradley Livingston, Herbert Livingston, William Livingston, McKinley Livingston, and Lenas Livingston; that it is likewise true that the said Cora Livingston sometime in the year 1906, was appointed guardian for said children, but on account of her misfesiance in Office she was removed as such guardian, and the said Jeff K. Parsons appointed in her stead in July, 1908.

Your respondent further says that it is true that on the 22d day of May, 1906, there was ($456.80) four hundred and fifty-six dollars and eighty cents, of said infants money turned over to him by the said Cora Livingston, their former guardian; that he did not give the said Cora Livingston any note, bond or securety for the same; but on the contrary said children being your respondents grandchildren, and he knowing that he would have to keep them up, support and maintain them largely, he simply on his books gave them credit for the sum of money, and thereupon did furnish and provide each and every one of said infants all of the food and clothing that they had to have. But as to the clothing your respondent kept no account, only charged them with their actual supplies such as corn, meal flour, coffee, sugar, meat and the like, and which amounts to the sum of ($142.2) one hundred and forty-two dollars and twenty-four

cents. Your respondent avers that the mother of these said children was poor and had nothing with which to support her children, therefore her only means of support was to come out of said sum of money, and he did furnish them articles amounting to said sum of money and they were actually neccessary for said children to live upon, and he therefore prays that he be allowed a credit of said (142.24(one hundred and forty-two dollars and twenty-four cents on the said sum of money which came into his hands as aforesaid belonging to said children, which credit should be dated about the first day of November, 1907.

All of the articles making up the said ($142.24) one hundred and forty-two dollars and twenty-four cents was furnished prior to that date. There were many other things which your respondent furnished to said children for which he made no charge; it was only the things which he had to actually buy and pay for that he charged them with. He furnished them a great deal of supples and eatables which came from off of his wife's farm and this he made no charge for. These children were all young and small and not able to support themselves at the time your respondent furnished to them the articles, which as aforesaid makes up the ($142.24) One hundred and forty-two dollars and twenty-four cents.

Your respondent is willing to pay to the said complainant the residue of said sum of money, and will do so so soon as he is able.

Now having fully answered he prays to be hence dismissed with his reasonable costs in this behalf expended.

A. L Loyd P.D.

Jeff K. Parsons

vs } Answer of A. L. Loyd

A. L. Loyd et al

Filed Sept. 7, 1908 in open court and by leave thereof

H. C. P. Ewing,
Clerk

To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County.

The Separate answer of Cora M. Livingston to a bill of complaint filed in your Honorable Court by Jeff K. Parsons, guardian, etc. against her and others, and for answer thereto, or to so much thereof as she is advised that it is material for her to answer, answering says:

That your respondant supposed that it is true that she was heretofore duly appointed guardian for her children, to-wit, Bradley Livingston, who is now nineteen years of age; Herbert Livingston, whos is now about seventeen years of age; William Livingston who is now about fifteen years of age; McKinley Livingston who is about twelve years of age and Lenas Livingston who is about eight years of age; that she was by a previous order made by your Honor removed as such guardian and the said complainant appointed in her room and instead as guardian for her said children.

Your respondent further says that it is true that on or about the 22d day of May, 1906, there was ($456.80) four hundred and fifty-six dollars and eighty cents of said infants money receipted by her to James W. Orr a Commissioner; that she turned this money over to her father, A. L. Loyd, to control and manage for her; that her father promised to execute to her a good and sufficient note for said sum of money, but he failed to do so, and has not done so up to this time; nor has he paid to your respondent any part thereof, and the said A. L. Loyd still ows to your respondent said sum of money with its interest compounded from the 22d day of May, 1906, till paid.

Your respondent will further show and aver unto your Honor that she is a poor woman without any means of support for her said children; that ~~xhexge~~ out of the estate of her husband she got about ($117.00) one hundred and seventeen dollars, all of which she expended, together with all of her labor and money made by her by keeping boarders on her said children; that she is now absolutely without any property whatever, except, a little house-hold and kitchen furniture. Your respondent says that with the said money which she got from her said husbands estate, together with all of the money which she had made by keeping boarders since she was appointed as guardian, as aforesaid for her said children, she has expended in the support, care and maintenance of her said children; and at the time which she was so expending her little money, services and labor, she was advised that she would be entitled to charge such support and maintenance of her said children to them; and she avers and charges that it was worth at least ($50.00) fifty dollars per annum for support each of her said five children; and she thereupon prays that she be allowed a credit upon her said indebtness at the rate of ($50.00) fifty dollars each per annum for each of her said children; and that she be given in her own right a judgment over against the said A. L. Loyd, and for that purpose she prays that this her said answer be taken as a cross bill against the said A. L. Loyd.

And now having fully answered she prayes to be hence dismissed with her reasonable costs in this behalf expended.

Cora M. Livingston

Jeff K. Parsons

vs } Answer of
Leora M. Livingston

Leora M. Livingston

Filed Sept. 7, 1908,
in open Court X X
by leave thereof.

H. C. Ewing,
Clerk

To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County .

The seperate answer of Bradley Livingston, Herbert Livingston, William Livingston, McKinley Livingston and Lenas Livingston, infants under the ages of twenty-one years by M. Y. Ely ~~Livingston~~ their guardian ad litem assigned to defend them in this suit to a bill of complaint exhibited against them and others in the Circuit Court for the County of Lee by Jeff K. Parsons, guardian, etc.

The respondants reserve to themselves the benefit of all just exceptions to the said bill, for answer thereto or to so much thereof as they are advised that it is material that they should answer, by their said guardian ad litem, answer and say:

That they are infants of tender years, and by reason of their infancy are incapable of understanding, or of taking care of their rights and interests. They, therefore, by their said guardian ad litem commend themselves and their rights and interests to the protection of the Court and pray that no decree may be pronounced in said cause which will tend to their prejudice.

And having fully answered, the said respondents pray to be hence dismissed with their reasonable costs in this behalf expended, and they will ever pray, etc.

M. Y. Ely ,

Guardian ad litem for said infants.

Jeff K. Parsons, Guard.

vs } Answer G.A.L.

Cora Livingston et al

Filed Sept 7th 1908

Jeff K. Parson, Complainant,

vs.

A. L. Loyd, et al. Defendants.

Decree.

This cause came on this day to be heard upon the bill of the compla inant and exhibits filed therewith and the separate answers of A. L. Loyd, Cora M. Livingston and H. Z. Parsons, and the joint answer of Bradley Livingston, Herbert Livingston, William Livingston, McKinley Livingston and Lenas Livingston, infants under the age of twenty-one years by M. G. Eby, their guardian ad letum assigned hereby to defend said infants and general replication to each of said answers, and was argued by counsel.

On consideration of all which and for reasons appearing to the Court, it is adjudged, ordered and decreed that the plaintiff in this cause do not recover anything from the said Cora M. Livingston, former guardian of said infant children, nor against the said A. L. Loyd and H. Z. Parsons sureties on her Official Bond, and it further appearing to the Court from the pleadings in this cause that said Cora M. Livingston has, out of her own means and labor supported and maintained the said five infants for more than two years, and that such support and maintenance as furnished by her to the said infants is reasonably worth ($250.00) rwo hundred and fifty dollars per annum, which support and maintenance for two years amounts to the sum of ($500.00) five hundred dollars which deducted from the ($456.80) four hundred and fifty-six dollars and

eighty cents, which should have gone into her hands as such guardian, would entirely liquidate said sum of money.

And it further appearing to the Court from the pleadings in this cause that A. L. Loyd took into his hands the said sum of ($456.80) four hundred and fifty-six dollars and eighty cents on the 22d day of May, 1906, and has not paid the same to the said Cora M. Livingston; but has paid to her a part thereof, to-wit, the sum of ($142.24) one hundred and forty-two dollars and twenty-four cents, it is therefore further adjudged, ordered and decreed that the said Cora M. Livingston, pursuant to her prayer of her cross bill recover from the said A. L. Loyd the sum of ($456.80) four hundred and fifty-six dollars and eighty cents, with interest thereon from the 22d day of May, 1906, till paid, subject to a credit thereon of ($142.24) one hundred and forty-two dollars and twenty-four cents, as of November, 1st, 1907, and the costs of this suit, and for which recovery an execution may issue from the Clerk's Office of this Court; and there remaining nothing further to be done in this cause, it is ordered that it be stricken from the docket.

with stay of execution for 90 days

Jeff K. Parsons

vs } Decrefinal

A. L. Loyd et al

Entered in C.O.B.
8, page 384 &c

Enter this
Sept 8th 1908
H. A. W. Skeen

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon T. P. Parsons, A. L. Loyd, Cora Livingston, Bradley Livingston, Robert Livingston, William Livingston, McKinley Livingston and Lenas Livingston

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on the 3rd Monday in August, 1908, to answer a bill in chancery exhibited against them by Jeff L. Parsons, Guardian for Bradley Livingston, Robert Livingston, William Livingston, McKinley Livingston and Lenas Livingston,

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the 30th day of July, 1908, and 133rd year of the Commonwealth.

A Copy, Teste: _____, Clerk

H. C. T. Ewing, Clerk

_____, Clerk

Jeff K. Parsons, Gdn. &c.

VS { SUBPŒNA IN CHANCERY

W. G. Parsons, et al,

Pen. Bros., p. q.

To 2nd August Rules

Circuit Court

1908.

Executed on the 3rd day of August, 1908 by delivering true copies of the within summons to each W. G. Parsons, Leona Livingston, and A. L. Loyd in Lee County, Va.

E. S. Stalleker S. S. for

W. G. Tucker

S. L. C.